

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BALTIMORE DIVISION

JASON ALFORD, DANIEL LOPER, WILLIS McGAHEE, MICHAEL McKENZIE, JAMIZE OLAWALE, ALEX PARSONS, ERIC SMITH, CHARLES SIMS, JOEY THOMAS, and LANCE ZENO, Individually and on Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

THE NFL PLAYER DISABILITY & SURVIVOR BENEFIT PLAN; THE NFL PLAYER DISABILITY & NEUROCOGNITIVE BENEFIT PLAN; THE BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN; THE DISABILITY BOARD OF THE NFL PLAYER DISABILITY & NEUROCOGNITIVE BENEFIT PLAN; LARRY FERAZANI; JACOB FRANK; BELINDA LERNER; SAM McCULLUM; ROBERT SMITH; HOBY BRENNER; and ROGER GOODELL,

Defendants.

Case No. 1:23-cv-00358-JRR

**DECLARATION OF BENJAMIN R. BARNETT IN SUPPORT OF
PLAINTIFFS DANIEL LOPER'S, JAMIZE OLAWALE'S, AND CHARLES SIMS'
OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

BENJAMIN R. BARNETT declares the following pursuant to 28 U.S.C. § 1746:

1. I am a partner in the law firm of Seeger Weiss LLP and am admitted to practice in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia, and I am also admitted to this Court. I make this Declaration in support of Plaintiffs Daniel Loper's, Jamize Olawale's, and Charles Sims' opposition to Defendants' motions for motions for summary judgment as to their claims (ECF Nos. 115, 123, 125). I have personal knowledge of the matters

set forth herein based on my role as one of the counsel of record and on my review of the case file of my firm and other files.

2. Annexed hereto as **Exhibit 1** is a copy of Motion to Exclude Testimony of Dr. Eric Brahin in *Castillo v. Webber LLC.*, No. DC-17-16837, (Tex. 101st Dist. Ct. Dallas Cty. Dec. 8, 2017), produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000024.

3. Annexed hereto as **Exhibit 2** is the May 24, 2013 transcript of the deposition of Dr. Barry McCasland in *Ahrendt v. Home Depot U.S.A., Inc.* No. 11-A-4554 (Ga. State Ct. Cobb Cty. Nov. 11, 2011), produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000118.

4. Annexed hereto as **Exhibit 3** is a copy of the Physician Report Form dated September 4, 2019, for Michael McKenzie, bearing Bates number NFL_ALFORD-0004454.

5. Annexed hereto as **Exhibit 4** is a copy of the Claims Procedure for Plans Providing Disability Benefits, 81 Fed. Reg. 92,316 (Dec. 19, 2016) (29 C.F.R. § 2560.503-1), produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000151.

6. Annexed hereto as **Exhibit 5** are excerpts from the transcript of the April 1, 2025 deposition of Hessam (“Sam”) Vincent, currently the Disability Relations Manager of the National Football League’s Player Benefits Office (“NFLPBO”).

7. Annexed hereto as **Exhibit 6** is a copy of an Agenda from a conference in Amelia Island, Florida entitled “Turning Up the Heat on Effective Litigation Strategies, The Hottest Topics in Product Liability and Complex Torts, 2016 Product Liability & Complex Torts Practice Group Seminar.” The May 20, 2016, Session entitled "Defending a Traumatic Brain Injury Claim - The Terror to Come, Defending Psychological Injury Claims and Mild Traumatic Brain Injury Claims in the Wake of DSM V," presented by Stephen Macciocchi, Ph.D. ABPP-CN, among others, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000167.

8. Annexed hereto as **Exhibit 7** is a compilation of Literature authored by Dr. Macciocchi and produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000156 and NFLPLTFS-0000163.

9. Annexed hereto as **Exhibit 8** is a copy of the Amendment to the Services Agreement between NFL Player Disability & Neurocognitive Benefit Plan and Dr. William Garmoe, dated November 1, 2014, bearing Bates number NFL_ALFORD-0012319.

10. Annexed hereto as **Exhibit 9** is a copy of the Second Amendment to Services Agreement between NFL Player Disability & Neurocognitive Benefit Plan and Dr. William Garmoe, dated September 23, 2016, bearing Bates number NFL_ALFORD-0012321.

11. Annexed hereto as **Exhibit 10** are excerpts from the transcript of the April 2, 2025, deposition of Defendant Robert Smith, a member of the Defendant Disability Board (“Board”).

12. Annexed hereto as **Exhibit 11** are excerpts from the transcript of the March 28, 2025, deposition of Adora Williams, a Senior Manager in the Benefits Department of the National Football League Players Association (“NFLPA”) and Party Advisor to the NFLPA-appointed members of the Board.

13. Annexed hereto as **Exhibit 12** is a copy of the Services Agreement between NFL Player Disability & Neurocognitive Benefit Plan and Dr. William Garmoe and Dr. Silvana Riggio dated June 15, 2017, bearing Bates number NFL_ALFORD-0012413.

14. Annexed hereto as **Exhibit 13** is the NFL Neurological Care Program Website, published August 9, 2017, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000071.

15. Annexed hereto as **Exhibit 14** is the Silvana Riggio, MD, “About Me” page on Mount Sinai - New York website, produced by Plaintiffs in native format and Bates numbered

NFLPLTFS-0000073.

16. Annexed hereto as **Exhibit 15** is a copy of the Services Agreement between NFL Player Disability & Neurocognitive Benefit Plan and Dr. Kevin J. Kessler and dated March 1, 2017, bearing Bates number NFL_ALFORD-0012332.

17. Annexed hereto collectively as **Exhibit 16** is a compilation of documents evidencing Plan Neutral Physicians advertising their NFL, NFLPA, or Plan affiliation, including documents produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000034-39; NFLPLTFS-0000046-53; NFLPLTFS-0000058-60; NFLPLTFS-0000075; NFLPLTFS-0000077; NFLPLTFS-0000079; and NFLPLTFS-0000081.

18. Annexed hereto collectively as **Exhibit 17** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-000048; NFLPLTFS-0000172; NFLPLTFS-0000308; NFLPLTFS-0000342; NFLPLTFS-0000344; NFLPLTFS-0000368; NFLPLTFS-0000442; NFLPLTFS-0000443; NFLPLTFS-0000476; NFLPLTFS-0000505; NFLPLTFS-0000530; NFLPLTFS-0000573; NFLPLTFS-0000671; and NFLPLTFS-0000690.

19. Annexed hereto collectively as **Exhibit 18** are decision letters dated May 18, 2020, and November 22, 2022, the former produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0003143, and the latter Bates numbered NFL_ALFORD-0061584.

20. Annexed hereto collectively as **Exhibit 19** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, those produced by Defendants Bates numbered NFL_ALFORD-0011872, and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000405; NFLPLTFS-0000438; NFLPLTFS-0000490; NFLPLTFS-0000498; NFLPLTFS-0000518; NFLPLTFS-0000606; NFLPLTFS-0000708; and

NFLPLTFS-0000720.

21. Annexed hereto collectively as **Exhibit 20** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, those produced by Defendants Bates numbered NFL_ALFORD-0011872, and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000405; NFLPLTFS-0000485; NFLPLTFS-0000490; NFLPLTFS-0000498; NFLPLTFS-0000518; NFLPLTFS-0000606; NFLPLTFS-0000708; and NFLPLTFS-0000720.

22. Annexed hereto collectively as **Exhibit 21** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, those produced by Defendants Bates numbered NFL_ALFORD-001187, and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000498; NFLPLTFS-0000567; NFLPLTFS-0000606; and NFLPLTFS-0000612.

23. Annexed hereto collectively as **Exhibit 22** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, those produced by Defendants Bates numbered NFL_ALFORD-000053; NFL_ALFORD-0000687; NFL_ALFORD-0049740; NFL_ALFORD-0021028; NFL_ALFORD-0004417; NFL_ALFORD-0004684; NFL_ALFORD-0009156; NFL_ALFORD-0010283; NFL_ALFORD-0010769; NFL_ALFORD-0011212; NFL_ALFORD-0011412; NFL_ALFORD-0015212; NFL_ALFORD-0016247; NFL_ALFORD-0016387; NFL_ALFORD-0020465; NFL_ALFORD-0021211; NFL_ALFORD-0023672; NFL_ALFORD-0023818; NFL_ALFORD-0024082; NFL_ALFORD-0024395; NFL_ALFORD-0049402; and those produced by Plaintiffs in native format and Bates numbered: NFLPLTFS-0000381; NFLPLTFS-0000443; NFLPLTFS-0000583; NFLPLTFS-0000584; NFLPLTFS-0000586; NFLPLTFS-0000593; NFLPLTFS-0000595; NFLPLTFS-

0000596; NFLPLTFS-0000599; NFLPLTFS-0000600; NFLPLTFS-0000601; and NFLPLTFS-0000603; NFLPLTFS-0002187.

24. Annexed hereto as **Exhibit 23** is an excerpt from the transcript of the October 28, 2021, deposition of Richard Willis Cass, then a member of the Defendant Board, in *Cloud v. The Bert Bell/Pete Rozelle NFL Player Retirement Plan*, No. 3:20-CV-1277-S (N.D. Tex.).

25. Annexed hereto collectively as **Exhibit 24** is a compilation of “Summary Sheets” prepared by Groom Law Group, Counsel for the Plan for Plaintiff Olawale, bearing Bates numbers NFL_ALFORD-0009163, NFL_ALFORD-0009541, and NFL_ALFORD-0021174.

26. Annexed hereto as **Exhibit 25** is an excerpt from the NFL Disability Plan Summary Plan Description, August 2019, bearing Bates number NFL_ALFORD-0012016.

27. Annexed hereto as **Exhibit 26** is an excerpt from NFL Disability Plan Summary Plan Description, October 2019, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000107.

28. Annexed hereto collectively as **Exhibit 27** is a compilation of “Summary Sheets” prepared by Groom Law Group, Counsel for the Plan, for Plaintiff Sims, bearing Bates numbers NFL_ALFORD-0009864, NFL_ALFORD-0010112, and NFL_ALFORD-0010256.

29. Annexed hereto collectively as **Exhibit 28** are excerpts from the transcript of February 21, 2025 hearing on Plaintiffs' Motion to Compel.

30. Annexed hereto collectively as **Exhibit 29** are copies of Physician Report Forms for Plaintiffs and absent members of the proposed class, those produced by Defendants bearing Bates numbers NFL_ALFORD-0024102 and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001404.

31. Annexed hereto as **Exhibit 30** is a Decision Letter dated February 24, 2021,

produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000462.

32. Annexed hereto collectively as **Exhibit 31** is a compilation of excerpts of Physician Report Forms for absent members of the proposed class produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000178; NFLPLTFS-0000181; NFLPLTFS-0000182; NFLPLTFS-0001135; NFLPLTFS-0002175; NFLPLTFS-0002259; and NFLPLTFS-0002655; NFLPLTFS-0003103.

33. Annexed hereto collectively as **Exhibit 32** is a compilation of excerpts from decision letters sent to Plaintiffs and absent members of the proposed class, those produced by Defendants Bates numbered NFL_ALFORD-0004684; NFL_ALFORD-0009846; NFL_ALFORD-0011212; and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000236; NFLPLTFS-0000344; NFLPLTFS-0000431; NFLPLTFS-0000480; NFLPLTFS-0000573; and NFLPLTFS-0000612.

34. Annexed hereto as **Exhibit 33** are copies of March 31, 2022 medical records for Plaintiff Charles Sims, bearing Bates number NFL_ALFORD-0010274.

35. Annexed hereto collectively as **Exhibit 34** is a compilation of excerpts from documents evidencing applicants' required travel to Neutral Physicians, those produced by Defendants Bates numbered NFL_ALFORD-0010769; and those produced by Plaintiffs in native format and Bates numbered NFLPLTFS-000148; NFLPLTFS-0000418; NFLPLTFS-0000474; NFLPLTFS-0000529; NFLPLTFS-0000625; NFLPLTFS-0000801; and NFLPLTFS-0001560; NFLPLTFS-0002387.

36. Annexed hereto as **Exhibit 35** is a copy of the Physician Report Form for Nicholas Harper, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001867.

37. Annexed hereto collectively as **Exhibit 36** are copies of excerpts from Physician

Report Forms for absent members of the proposed class, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0002091 and NFLPLTFS-0001149.

38. Annexed hereto collectively as **Exhibit 37** are copies of excerpts from Physician Report Forms for absent members of the proposed class, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001626 and NFLPLTFS-0001467.

39. Annexed hereto as **Exhibit 38** is an excerpt from a Physician Report Form for Bradley Jackson, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000889.

40. Annexed hereto as **Exhibit 39** is an excerpt from a Physician Report Form for Charles Peprah, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001128.

41. Annexed hereto as **Exhibit 40** is a March 5, 2020 email from Dr. Shah Re: Daniel Loper, produced by Defendants, bearing Bates number NFL_ALFORD-0001140.

42. Annexed hereto as **Exhibit 41** is a copy of a Summary Sheet prepared by Counsel for the Plan for Plaintiff Loper and produced by Defendants, bearing Bates number NFL_ALFORD-0001481.

43. Annexed hereto as **Exhibit 42** is a copy of the November 15, 2021 decision letter sent to Louis Delmas, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000778.

44. Annexed hereto as **Exhibit 43** is an excerpt from a decision letter sent to Demetrius Harris and produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0002503.

45. Annexed hereto collectively as **Exhibit 44** is a compilation of excerpts from Physician Report Forms for Plaintiffs and absent members of the proposed class, with those produced by Defendants Bates numbered NFL_ALFORD-0021739, and those produced by

Plaintiffs in native format and Bates numbered NFLPLTFS-0001056; NFLPLTFS-0001410; NFLPLTFS-0001965; and NFLPLTFS-0002155.

46. Annexed hereto collectively as **Exhibit 45** is an excerpt from the Physician Report Form for Jeron Mastrud, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000920.

47. Annexed hereto collectively as **Exhibit 46** is a compilation of documents evidencing Board rejection of physicians' consideration the "cumulative effect" of all impairments, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000472; NFLPLTFS-0001026; NFLPLTFS-0002159; NFLPLTFS-0002369; NFLPLTFS-0002942; and NFLPLTFS-0003241.

48. Annexed hereto as **Exhibit 47** is an excerpt from a Physician Report Form for Marquice Cole produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001636.

49. Annexed hereto collectively as **Exhibit 48** is a compilation of excerpts from Physician Report Forms and decision letters completed for absent members of the proposed class by Drs. Cooper, Salisbury, and O'Rourke and produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000178; NFLPLTFS-0000218; NFLPLTFS-0000233; NFLPLTFS-0001129; NFLPLTFS-0001130; NFLPLTFS-0001131; NFLPLTFS-0001132; NFLPLTFS-0001133; NFLPLTFS-0001762; NFLPLTFS-0001764; NFLPLTFS-0001782; NFLPLTFS-0002254; NFLPLTFS-0002666; NFLPLTFS-0003166; and NFLPLTFS-0003167.

50. Annexed hereto as **Exhibit 49** is a Biography of Douglas B. Cooper, Ph.D., ABPP-CN on the "Our Doctor" page on South Texas Neuropsychology website, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000045.

51. Annexed hereto collectively as **Exhibit 50** is a compilation of excerpts from

Physician Report Forms for Plaintiffs and absent members of the proposed class completed by Dr. David Apple, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000349, NFLPLTFS-0000387, and NFLPLTFS-0000866.

52. Annexed hereto collectively as **Exhibit 51** is a compilation of excerpts from Physician Report Forms and decision letters completed for Plaintiffs and absent members of the proposed class produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000258; NFLPLTFS-0000270; NFLPLTFS-0000272; NFLPLTFS-0000278; NFLPLTFS-0000869; NFLPLTFS-0000870; NFLPLTFS-0001891; NFLPLTFS-0001892; and NFLPLTFS-0002669.

53. Annexed hereto as **Exhibit 52** is the Sports Medicine Associates Website, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0003227.

54. Annexed hereto as **Exhibit 53** is a February 12, 2019, Movant Health Facebook Post, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000067.

55. Annexed hereto collectively as **Exhibit 54** is a compilation of excerpts from Physician Report Forms completed for Plaintiffs and absent members of the proposed class produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0001083; NFLPLTFS-0001696; NFLPLTFS-0001697; NFLPLTFS-0001699; NFLPLTFS-0001849; NFLPLTFS-0002973; NFLPLTFS-0002975; NFLPLTFS-0002976; and NFLPLTFS-0003239.

56. Annexed hereto as **Exhibit 55** is a copy of a decision letter sent to Daniel Loper on September 13, 2022, produced by Defendants and Bates numbered NFL_ALFORD-0064367.

57. Annexed hereto collectively as **Exhibit 56** is a compilation of excerpts from Physician Report Forms completed for Plaintiffs and absent members of the proposed class, produced by Plaintiffs in native format and Bates numbered NFLPLTFS-0000964; NFLPLTFS-0000985; NFLPLTFS-0001772; NFLPLTFS-0003166; and NFLPLTFS-0003167.

58. Annexed hereto as **Exhibit 57** are excerpts from the transcript of the August 10, 2021 deposition of Hessam (“Sam”) Vincent in *Cloud v. The Bert Bell/Pete Rozelle NFL Player Retirement Plan*. No. 3:20-CV-1277-S (N.D. Tex.).

59. Under penalty of perjury, I declare the foregoing to be true and correct.

Executed this 25th day of April 2025

s/ Benjamin R. Barnett

BENJAMIN R. BARNETT